

MINUTES
REGULAR MEETING OF THE CITY COUNCIL
CITY OF MEMPHIS

April 7, 2009

3:30 P.M. SCHEDULED SESSION

3:35 P.M. MEETING COMMENCED

ROLL CALL: William Boyd, Joe Brown, Harold Collins, Kemp Conrad, Shea Flinn, Edmund Ford, Jr., Janis Fullilove, Wanda Halbert, Reid Hedgepeth, Bill Morrison, Jim Strickland, Barbara Swearengen Ware and Chairman Myron Lowery

**THE MEETING WAS CALLED TO ORDER
BY SERGEANT-AT-ARMS**

INVOCATION

The meeting was opened with prayer by Rev. Jerry E. Wiggison, Sr. from Corinthian M.B. Church. Councilwoman Ware presented Rev. Wiggison with a certificate naming him Chaplain of the day.

These minutes record the agenda items and the action taken by the Council on such items. The full text of the original of the ordinances, resolutions and supporting documents, including an audio recording of Council's deliberations are filed and maintained in the office of Council Records/Records Management, Room 2B-08. The original ordinances and/or resolutions adopted by the Council shall control in the event of any conflict between the description in these minutes and the original documents, ordinances and/or resolutions.

MINUTES

Approval of the Minutes of the regular meeting of March 17, 2009 with the following motion:

MOTION: Fullilove
SECOND: Boyd
AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, Ware and Chairman Lowery

APPROVED

3. **RESOLUTION APPROVING A HOTEL/MOTEL WAIVER FOR QUALITY INN, LOCATED AT 6068 MACON.**

DROPPED

28. **RESOLUTION RECOGNIZING TOP D.O.G.S., (DADS OF GREAT STUDENTS) AN ORGANIZATION DEDICATED TO FOCUSING ON THE PREVENTION OF CRIME IN OUR CHILDREN'S SCHOOL.**

MOTION: Brown

SECOND: Collins

APPROVED, by unanimous voice vote

1. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED ON THE WEST SIDE OF HACKS CROSS ROAD; +298 FEET SOUTH OF PLAYERS CLUB PARKWAY, CONTAINING 6.18 ACRES IN AN AREA CURRENTLY GOVERNED BY THE CONDITIONS FOR PARCEL C, FIELDSTONE P.D. (P.D. 05-337).**

Case No. PD 08-337

Chairman Lowery recognized the following person who spoke from the audience:

Ramesh Basa, 3265 W. Sarazen Cr., Mphs, TN 38125

Phillip Dean, 7876 Poplar Pike, Mphs, TN 38138

Applicant: Players Crossing Partners (Mark Johnson)
Davis Engineering (Mark Davis) – Representative

Request: Amend the conditions for Parcel C of the Fieldstone Planned
Development to permit Self-Storage/Mini-warehouse

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Morrison

SECOND: Hedgepeth

AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth,
Morrison, Strickland, Ware and Chairman Lowery

APPROVED, as amended

2. **RESOLUTION TO APPROVE POLICY CHANGES TO THE PAYMENT-IN-LIEU-OF-TAX (PILOT) PROGRAM OF THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF MEMPHIS AND COUNTY OF SHELBY (IDB). THESE CHANGES ADDRESS ADMINISTRATIVE AND SUBSTANTIVE PROCEDURE ISSUES THAT CREATED AN UNINTENDED BURDEN ON BUSINESSES WHEN ADOPTED BY THE IDB IN AUGUST, 2007. THE IDB POLICY CHANGES WERE RECOMMENDED BY THE MEMPHIS CITY COUNCIL AND THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY.**

A COPY OF THE RESOLUTION ADOPTED BY THE MEMPHIS CITY COUNCIL ON OCTOBER 3, 2006, APPROVING POLICY AND PROGRAM CHANGES TO THE PILOT PROGRAM IS ATTACHED.

Economic development officials have documentation on companies that considered a business location or expansion in Shelby County but made the decision to locate in neighboring communities due to the costly and arduous requirements of obtaining a PILOT in Shelby County. This resolution recommends a retroactive modification to a number of the 2006/2007 amendments, outlined as Exhibit A.

Chairman Lowery recognized the following persons who spoke from the audience:

Reid Dulberger, 22 N. Front St., Mphs, TN 38101
Willie Gregory, 5151 Shelby, Mphs, TN 38118
Mark Herbison, 22 N. Front St., Mphs, TN 38103
T.C. Jones, Jr., Mphs, TN 38193 (no address was listed on the appearance card)
Will Tyler, 100 Peabody Pl., Suite 1200, Mphs, TN 38103

MOTION: Collins
SECOND: Morrison
AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, Ware and Chairman Lowery

APPROVED

4. **RESOLUTION APPROVING A SPECIAL USE PERMIT LOCATED ON THE SOUTHEAST CORNER OF POPLAR AVENUE AND LAFAYETTE STREET, CONTAINING 1.70 ACRES IN THE LOCAL COMMERCIAL (C-L) DISTRICT.**

Case No. SUP 09-201

Applicants: Castle Chickasaw, LLC & 129 Chickasaw, LLC
Stanley Trezevant, III – Representative

Request: Special use permit to allow motor vehicle sales and service of
'Vespa' scooters

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Morrison
SECOND: Strickland
AYES: Boyd, Brown, Collins, Conrad, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, Ware and Chairman Lowery
Flinn did not cast a vote

APPROVED

CONSENT AGENDA – Items 5-8 may be acted upon by one motion: SEE PAGE 2847 FOR ROLL CALL

5. **ORDINANCE TO AMEND CHAPTER 5 OF THE CODE OF ORDINANCES SO AS TO PROHIBIT THE ROADSIDE SALE OF ANIMALS, UP FOR S E C O N D READING.**
Ordinance No. 5300

APPROVED, on Second reading

6. **ORDINANCE TO ADOPT THE UNIVERSITY DISTRICT OVERLAY (UDO) AS A ZONING TEXT AMENDMENT, UP FOR S E C O N D READING.**
Ordinance No. 5301
Case No. ZTA 08-002

APPROVED, on Second reading

7. **ORDINANCE TO AMEND THE TEXT OF THE ZONING ORDINANCE, UP FOR S E C O N D READING.**
Ordinance No. 5302
Case No. Z08-104

APPROVED, on Second reading

8. **NOTATIONS FROM LAND USE CONTROL BOARD THAT THE FOLLOWING CASES WERE HEARD AND RECOMMENDATION MADE REQUESTING A DATE OF PUBLIC HEARING:**

- A. Case No. SUP 09-202
B. Case No. PD 09-301 – Villages of Bennington P.D., 5th Amendment

Public Hearing set for April 21, 2009

ROLL CALL CONSENT ITEMS

MOTION: Ware
SECOND: Ford
AYES: Boyd, Brown, Collins, Ford, Fullilove, Halbert, Hedgepeth, Strickland, Ware and
Chairman Lowery
Conrad, Flinn and Morrison did not cast a vote

APPROVED

MLGW FISCAL CONSENT – Items 9-15 may be acted upon by one motion:

9. **RESOLUTION AWARDED CONTRACT NO. 11315, CONCRETE VAULT INSTALLATION, TO BARNES AND BROWER, INC. IN THE FUNDED AMOUNT OF \$134,446.00.**

APPROVED

10. RESOLUTION AWARDED CONTRACT NO. 11322, EROSION REVETMENT MATTING, TO CHRIS HILL CONSTRUCTION COMPANY, LLC, IN THE FUNDED AMOUNT OF \$28,300.00.

APPROVED

11. RESOLUTION APPROVING CHANGE NO. 3 TO CONTRACT NO. 10793, PROFESSIONAL PORTFOLIO SOFTWARE, WITH ADVENT SOFTWARE, INC. IN THE FUNDED AMOUNT OF \$26,402.80. (THIS CHANGE RENEWS THE CONTRACT FOR THE SECOND OF FOUR RENEWAL TERMS, APRIL 19, 2009 THROUGH APRIL 20, 2010).

APPROVED

12. RESOLUTION APPROVING CHANGE NO. 4 TO CONTRACT NO. 11039, GAS LEAK SURVEY, WITH HEATH CONSULTANTS IN THE FUNDED AMOUNT OF \$522,257.00. (THIS CHANGE RENEWS THE CONTRACT FOR THE FOURTH AND FINAL RENEWAL TERM, JULY 1, 2009 TO JUNE 30, 2010, INCLUDING A 0.2% INCREASE IN RATES FROM THE PREVIOUS YEAR AND 2,000 ADDITIONAL MILES FOR THE MOBILE GAS LEAK MAIN SURVEY).

APPROVED

13. RESOLUTION APPROVING CHANGE NO. 3 TO CONTRACT NO. 11097, GROUNDS AND LANDSCAPING SERVICES, WITH ENVIRONMENTAL LANDSCAPE SERVICES IN THE FUNDED AMOUNT OF \$77,844.00. (THIS CHANGE RENEWS THE CONTRACT FOR THE THIRD OF FOUR RENEWAL TERMS, APRIL 5, 2009 TO APRIL 4, 2010, AND INCLUDES A 3.8% INCREASE FROM THE PREVIOUS YEAR).

APPROVED

14. RESOLUTION APPROVING CHANGE NO. 2 TO CONTRACT NO. 11164, ASSESSMENT OF POLYCHLORINATED BIPHENYLS CONTAMINATION, WITH CENTER FOR TOXICOLOGY AND ENVIRONMENTAL HEALTH, LLC, IN A FUNDED AMOUNT NOT TO EXCEED \$150,000.00. (THIS CHANGE RENEWS THE CONTRACT FOR THE SECOND OF FOUR RENEWAL TERMS, APRIL 20, 2009 THROUGH APRIL 19, 2010, WITH RATE ADJUSTMENTS).

APPROVED

15. RESOLUTION AWARDED CONTRACT FOR AUTOCAD SOFTWARE UPGRADES AND LICENSES TO DLT SOLUTIONS, INC. IN THE AMOUNT OF \$208,822.59.

APPROVED

MLGW ROLL CALL CONSENT ITEMS

MOTION: Ware
SECOND: Boyd
AYES: Boyd, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison,
Strickland, Ware and Chairman Lowery
Brown did not cast a vote

APPROVED

Councilwoman Ware requested that the following MLGW item be voted on separately. Chairman Lowery stated that without objection, Item #16 will be voted on separately

16. **RESOLUTION GIVING CONTRACT AUTHORITY TO MLGW'S VICE PRESIDENT AND GENERAL COUNSEL FOR A CLAIMS SETTLEMENT IN THE AMOUNT OF \$135,000.00.**

MOTION: Ware
SECOND: Boyd
AYES: Boyd, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison,
Strickland and Chairman Lowery
NAYS: Ware
Brown did not cast a vote

APPROVED, set up as Special Item #1

17. **APPOINTMENT**

CITIZEN'S LAW ENFORCEMENT REVIEW BOARD**Appointment**

Charlie F. Morris, Sr.

MOTION: Flinn
SECOND: Morrison
AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth,
Morrison, Strickland, Ware and Chairman Lowery

APPROVED

18. **RESOLUTION ACCEPTING GRANT FUNDS IN THE AMOUNT OF \$14,286.00 FROM THE STATE OF TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT DIVISION FOR WIA TITLE FIVE-INCENTIVE FUND. RESOLUTION ALSO AMENDS THE FY 2009 OPERATING BUDGET TO ESTABLISH AND APPROPRIATE GRANT FUNDS.**

MOTION: Collins
SECOND: Morrison
AYES: Boyd, Brown, Collins, Conrad, Ford, Fullilove, Halbert, Hedgepeth, Morrison,
Strickland, Ware and Chairman Lowery
Flinn did not cast a vote

APPROVED

19. **RESOLUTION ACCEPTING GRANT FUNDS IN THE AMOUNT OF \$32,156.00 FROM THE STATE OF TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT DIVISION FOR WIA TITLE ONE STATEWIDE ACTIVITIES FUND. RESOLUTION ALSO AMENDS FY 2009 OPERATING BUDGET TO ESTABLISH AND APPROPRIATE GRANT FUNDS.**

MOTION: Collins
SECOND: Boyd
AYES: Boyd, Brown, Collins, Conrad, Ford, Fullilove, Hedgepeth, Morrison, Strickland,
Ware and Chairman Lowery
Flinn and Halbert did not cast a vote

APPROVED

20. **RESOLUTION ALLOCATING AND APPROPRIATING \$50,000.00 IN LOCAL OTHER REVENUE FROM LIBERTY MUTUAL AND \$6,682.00 IN G.O. BONDS FROM THE FISCAL YEAR 2009 CIP BUDGET TO REPAIR ENGINE 59 FOR THE DIVISION OF FIRE SERVICES FOR A TOTAL APPROPRIATION OF \$56,682.00.**

MOTION: Hedgepeth
SECOND: Fullilove
AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth,
Morrison, Strickland, Ware and Chairman Lowery

APPROVED

21. **RESOLUTION TRANSFERRING AND APPROPRIATING A CONSTRUCTION ALLOCATION OF \$200,000.00, FUNDED BY G.O. BONDS FROM LIBERTY BOWL GATE/RES, CIP NUMBER PK10018 TO CONSTRUCTION IN LIBERTY BOWL ADA SEATING, CIP NUMBER PK10013, CHARGEABLE TO THE FY09 CAPITAL IMPROVEMENT BUDGET.**

MOTION: Strickland
SECOND: Boyd
AYES: Boyd, Brown, Collins, Conrad, Ford, Fullilove, Halbert, Hedgepeth, Morrison,
Strickland, Ware and Chairman Lowery
Flinn did not cast a vote

APPROVED

22. **RESOLUTION TO RECEIVE AND APPROPRIATE \$16,554.93 FROM THE ESTATE OF GARY D. FITZGERALD TO BE USED TO PURCHASE BOOKS AND MATERIALS FOR THE MEMPHIS PUBLIC LIBRARY AND INFORMATION CENTER.**

MOTION: Brown
SECOND: Fullilove
AYES: Boyd, Brown, Collins, Conrad, Fullilove, Halbert, Morrison, Ware and
Chairman Lowery
Flinn, Ford, Hedgepeth and Strickland did not cast a vote

APPROVED

23. **RESOLUTION MODIFYING THE FY2009 CAPITAL IMPROVEMENT BUDGET BY CREATING SAFE ROUTE TO SCHOOL FRAYSER, PROJECT NUMBER PW04065. RESOLUTION TO ACCEPT A GRANT FROM THE STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION IN THE AMOUNT OF \$258,360.00. RESOLUTION AMENDING THE FY 2009 CAPITAL IMPROVEMENT BUDGET BY ESTABLISHING AN ALLOCATION OF \$258,360.00 FUNDED BY THE STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION FOR SAFE ROUTE TO SCHOOL FRAYSER, PROJECT NUMBER PW04065.**

MOTION: Boyd
SECOND: Strickland
AYES: Boyd, Brown, Collins, Conrad, Ford, Fullilove, Halbert, Hedgepeth, Morrison,
Strickland, Ware and Chairman Lowery
Flinn did not cast a vote

APPROVED

24. **RESOLUTION ESTABLISHING A CIVILIAN LAW ENFORCEMENT REVIEW BOARD SPECIAL COMMITTEE.(Held from 3/17)**

MOTION: Conrad
SECOND: Hedgepeth
AYES: Boyd, Brown, Collins, Conrad, Ford, Fullilove, Halbert, Hedgepeth, Morrison,
Strickland, Ware and Chairman Lowery
Flinn did not cast a vote

APPROVED

25. **RESOLUTION EXTENDING THE DEADLINE FOR THE FAMILY SAFETY CENTER TO RAISE MATCHING FUNDS NOT TO EXCEED \$750,000.00 UNTIL APRIL 30, 2010 FOR THE PURPOSE OF SECURING A PREVIOUSLY APPROVED CITY GRANT IN THE AMOUNT OF \$750,000.00.**

MOTION: Morrison
SECOND: Hedgepeth
AYES: Boyd, Brown, Collins, Conrad, Ford, Fullilove, Halbert, Hedgepeth, Morrison,
Strickland, Ware and Chairman Lowery
Flinn did not cast a vote

APPROVED

26. **RESOLUTION ENCOURAGING RESIDENTS TO PARTICIPATE IN CENSUS 2010 PROMOTIONAL EVENTS AND INITIATIVES THAT WILL RAISE THE OVERALL AWARENESS OF THE CENSUS AND INCREASE PARTICIPATION AMONG ALL POPULATIONS.**

MOTION: Lowery
SECOND: Strickland
AYES: Boyd, Brown, Collins, Conrad, Ford, Fullilove, Halbert, Morrison, Strickland,
Ware and Chairman Lowery
NAYS: Hedgepeth
Flinn did not cast a vote

APPROVED

27. **RESOLUTION COMMITTING THAT THE CITY OF MEMPHIS WILL WORK TO MAXIMIZE THE CREATION OF AMERICAN JOBS AND RESTORING ECONOMIC GROWTH BY SPENDING ECONOMIC RECOVERY PLAN FUNDS ON PRODUCTS AND SERVICES THAT BOTH CREATE JOBS AND HELP KEEP AMERICANS EMPLOYED.**

Chairman Lowery recognized the following persons who spoke from the audience:

Willie J. Alexander, 1241 Old Hickory Rd., Mphs, TN 38116
Irvin Calliste, 3948 Summer Breeze Cv., Mphs, TN 38125
Debra Daniel, 664 King Rd., Mphs, TN 38109

Friendly Amendment: Add the following language: not abandoning the concepts of free trade

MOTION: Conrad

MAIN MOTION: Lowery
SECOND: Ford
AYES: Boyd, Brown, Collins, Conrad, Ford, Fullilove, Halbert, Morrison, Strickland,
Ware and Chairman Lowery
Flinn and Hedgepeth did not cast a vote

APPROVED, as amended

INTRODUCTION OF ITEMS ON MATTERS BY THE GENERAL PUBLIC:

Chairman Lowery recognized the following persons who spoke from the audience:

Yvonne Acey, 5340 Norma Dr., Mphs, TN 38109
Michael Arcamuzi, 2072 Kirby Rd., Mphs, TN 38119
Walter Broady, III, 4256 Ledbetter Cv., Mphs, TN 38109
Sylvia Loyd-Chism, 361 W. Holmes Rd., Mphs, TN 38109
Winston M. Ray, Mphs Union Mission, Mphs, TN 38103
Perry Steele, 4876 Billco, Mphs, TN 38109
Rosemary Winters, 1168 Rozelle St., Mphs, TN 38106

ADJOURNED MEETING AT 7:15 P.M.

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Upon statement of the Chairman, without objection, the meeting was adjourned, subject to the call of the Chairman.

C H A I R M A N

Attest:

Deputy Comptroller/Council Records